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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/054,986 04/03/98 STAVNES

M SC-5285

EXAMINER

IM52/0613

JAMES V LAPACEK  
S&C ELECTRIC COMPANY  
6601 NORTH RIDGE BOULEVARD  
CHICAGO IL 60626

NOLAN, S

ART UNIT

PAPER NUMBER

1772

DATE MAILED:

06/13/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trad marks**

# Office Action Summary

Application No.  
09/054,986

Applicant(s)  
STAVNES et al

Examiner  
Sandra Nolan

Art Unit  
1772



— Th MAILING DATE of this communication appears on th cov r sh et with th correspondence address —

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Apr 2, 2001
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 24-26, 36, and 39 is/are pending in the applica
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from considera
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 24-26, 36, and 39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirem

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 18) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other:

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## **DETAILED ACTION**

### ***Claims***

1. Following entry of the amendment dated April 2, 2001 (Paper No.12), in response to the Office Action dated October 25, 2000 (Paper No. 10), claims 24-26, 36, and 39.

### ***Rejections Withdrawn***

2. The 35 USC 112 rejection of claim 36 is withdrawn in view of Applicants' amendment to that claim in Paper No. 12.
3. The 35 USC 103 rejection of claims 28 and 33, as being unpatentable over Brown et al and Tobin and further in view of Schmunk (US 4,313,100), as set out in paragraph 9 of Paper No. 10, is withdrawn in view of Applicants' amendments in Paper No. 12.

### ***Rejections Maintained***

4. The 35 USC 103 rejection of claims 24-26 as unpatentable over Brown et al (US 5,975,145) in view of Tobin (US 4,349,803), as set out in paragraph 8 of Paper No. 10, is maintained for the reasons given earlier.
5. The 35 USC 103 rejection of claims 36 and 39 as unpatentable over Brown et al in view of Schmunk, as set out in paragraph 10 of Paper No. 10, is maintained for the reasons given there.

### ***New Rejection***

#### **Claim Rejections - 35 USC § 112**

6. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any

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person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

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7. Claims 36 and 39 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The Examiner has been unable to locate the phrase "so as not to affect the minimum predetermined wall thickness" in the original specification. Clarification re: that phrase's location in the original application and/or cancellation of same from claim 36 is requested.

Page 7, line 15 of the specification does not contain the quoted phrase.

*Response to Arguments*

8. Applicant's arguments filed in Paper No. 12 have been fully considered but they are not persuasive.

Paper No. 12 contains three pages of remarks, i.e., page 2-4.

On page 2, Applicants discuss their amendment to claim 36 and point out that they believe that the new language therein is supported by the specification.

The Examiner disagrees. Applicants are invited to point out a passage in the specification that contains the language they have added to claim 36.

Also on page 2, Applicants state that all of the claims are considered, by Applicants, to be in allowable form.

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The Examiner disagrees. See the other responses below.

Also on page 2, Applicants discuss the new rejection of claim 36 over Brown et al in view of Schmunk. Applicants refer several times to their new claim language, "so as not to affect the minimum predetermined wall thickness", in this portion of their argument.

As was stated in Paper No. 10, the motivation to tailor the thickness of the layers is found at column 13, lines 1-5 of Brown et al, where they teach that the thickness may vary and depend on such factors as resin type, the materials used to make the outer shell, the end use of the tube, and the like. The use of a non-overlapping first winding would have been an obvious way to minimize the thickness of the inner layer.

Also, the fact that the thickness is "predetermined" infers that the wall thickness is to be kept within certain values and its uniformity is to be controlled. Accordingly, it is unclear to the Examiner, how, in claim 1's terms, (a) "uniformity" [in the tube's] thickness" (as recited in line 4) and (b) "not affect[ing] the predetermined . . . thickness" (as presently recited in the last two lines) are not different ways of saying the same thing. Please clarify.

On page 3 of Paper No. 12, Applicants have discussed the rejection of claims 24-26 over Brown et al in view of Tobin. Applicants point out that Tobin does not suggest the use of melamine and that Tobin does not show a commercial fuse tube that has the strength to meet the required ratings.

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The Examiner responds by noting that Tobin was not cited to show all of the features of the claims. The reference was applied to show the conventionality of melamine in epoxy-bound fuse tubes.

Applicants remark that Brown et al shows a wound tube made using the prior art approach. They assert that their (Applicants') approach provides a commercial fuse tube with "wide interrupting range for currents up to 16000 amperes".

The Examiner acknowledges that Brown et al is part of the prior art. The Examiner notes that the property recited in quoted is not referred to in any of claims 24-26 and is, therefore not at issue here. Applicants appear to be improperly arguing limitations not recited in their claims. See MPEP 2145 (VI).

Applicants assert, on page 3, that melamine was not thought to be usable in sufficient quantity to achieve desirable arc-quenching properties while maintaining a high-strength tube.

The Examiner posits that Applicants' comments re: the use of melamine are not accurate. Tobin teaches the use of melamine (col. 4, line 16) as an arc-quenching filler in fuse tubes.

Applicants also argue that the use of too much aluminum trihydrate and/or too much melamine is deleterious.

The Examiner notes that Applicants have not pointed out convincing objective evidence in their specification that demonstrates the accuracy of these allegations.

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On page 4 of Paper No. 12, Applicants request favorable reconsideration and allowance of claims 24-26, 36 and 39 and invite the Examiner to call their attorney if the Examiner feels that a conversation with him would facilitate prosecution of this case.

The Examiner acknowledges the invitation, but feels that the record is complete as it stands. An interview is not deemed necessary at this time.

*Reference Cited as of Interest*

9. The Razavi patent (US 4,713,645) shows the use of melamine as a binder (col. 5, line 20) in a fuse tube (abstract).

*Final Rejection*

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee under 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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*Conclusion*

Any inquiry concerning this communication should be directed to Sandra M. Nolan, whose telephone number is (703) 308-9545. She can be reached on Monday through Thursday from 6:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon, can be reached on (703) 308-4251. The fax phone number for the art unit is (703) 305-5408. The telephone number for the receptionist is (703) 308-0661.

  
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June 12, 2001  
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BLAINE COPENHEAVER  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1700